

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5498 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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INDUSTRIAL TRAINING INSTITUTE SHAMALAJI

Versus

STATE OF GUJARAT

Appearance:

MR AM RAVAL for Petitioner

GOVERNMENT PLEADER for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 03/03/99

ORAL JUDGEMENT

Learned advocate for the petitioner has contended before me that the State cannot withdraw the permanent affiliation to the National Council for Vocational Training which has been granted to the petitioner by Government of India, Ministry of Labour, New Delhi.

The petitioner is taking grant from the State Government for running the institute. Therefore, under the provisions contained in the Grant-in-Aid Code for Industrial Training Institutes, recognition is required to be granted for getting the grant in aid. If any breach of the Rule is committed by the institute receiving the grant, then under the said rules it becomes the duty of the Government to see that strict action is taken against the Institute which is not maintaining its affairs as per the Rules.

In the instant case, it is an admitted position that in the Branch of Wireman trade, there was shortage of 231 items, out of which 117 items were purchased and 61 items were to be purchased, as per letter dated

22.1.1996 issued by the Secretary of the petitioner Institute, which is produced at page 47 of this compilation. In the notice dated 12.1.1996, it is pointed out that in the Branch of Wireman, Stenographer (Gujarati) and Dress Making, there was shortage of 231 items in Wireman trade, 17 items in Stenographer trade and 62 items in Dress Making trade. It was also pointed out that as per the grant-in-aid code, it is necessary to follow the guidelines. Notice was issued to the petitioner as to why there should not be de-affiliation / de-recognition.

There is eligibility criteria provided in the Rules governing the grant-in-aid. It is not necessary to refer in detail about the provisions pertaining to grant in aid but in case of mismanagement, deterioration of standards or efficiency and discipline, breach of instructions or orders issued by the Directorate or infringement of provisions of conditions/rules and procedures laid down in the code, the grant may be withdrawn. Moreover, in case it is found that the institution/management fails to maintain the prescribed norms and standards or in any way refuses to adopt the prescribed norms and standards or fails to satisfy in all respects the rules, conditions and procedures laid down in the code for the purpose of recognition and/or affiliation, the recognition and/or affiliation granted shall be withdrawn after due notice in writing. The notice has been given and reply has also been given from which it is clear that there is shortage of items in Wireman Trade; About others, there is no reference. If there is de-recognition of the institute so far as the grant-in-aid is concerned, can the petitioner straight way approach the High Court?. In this regard rule 31 is relevant, which reads as under :-

"In case of mismanagement, deterioration of standards of efficiency and discipline breach of instructor or orders issued by the Directorate or infringement of provisions of conditions, rules and procedures laid down in the code, which in the opinion of the Director is of a serious nature, the institution may be liable to be de-recognised by the Director after issuing an appropriate showcause (time bound) notice to the institution/management concerned. After receiving the reply from the institution/management the Director will take the final decision in the matter. The institution/management may appeal to the Secretary, Labour and Employment Department

against the order of the Director within a fortnight from the date of receipt of the order. Such an appeal shall be required to be forwarded through the Directorate. The decision of Government in this regard shall be final.

Thus, it is very clear that the institute can prefer an appeal to the Secretary, Labour and Employment Department against the order of Director within a fortnight from the receipt of the order. In the instant case, the petitioner has not exhausted the remedy of appeal, but has straightway approached this Court. In a given case, looking to the facts and circumstances of a particular case, this Court may, despite the provision as is found in Rule 31, entertain a petition but that does not mean that in all the cases the Court has to interfere when alternative remedy is provided. However, looking to the facts and circumstances of the present case, interest of justice would be met with if the petitioner is relegated to the alternative remedy as provided in Rule 31. Even though there is a delay in preferring such an appeal, we direct that if the petitioner prefers an appeal within ten days from today, the appellate authority shall not dismiss the appeal on the ground of delay, but shall decide the appeal on merits, in accordance with law, without being influenced by the observations made in this order.

This petition stands dismissed with the aforesaid directions. Notice is discharged. No order as to costs. Interim relief granted earlier stands vacated.
csm./ -----